

Exhibit D

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11 MESAFINT GEBREMARIAM

12 UNITED STATES DISTRICT COURT
13
14 NORTHERN DISTRICT OF CALIFORNIA

15 MESAFINT GEBREMARIAM, individually) Case No.:
16 and on behalf of all others similarly situated,)
17) **CLASS ACTION COMPLAINT**
18 Plaintiffs,)
19 vs.) **FOR DAMAGES, INJUNCTIVE RELIEF**
20 GENERAL MOTORS, LLC,) **AND EQUITABLE RELIEF**
21 Defendant.) **JURY TRIAL DEMANDED**
22)
23)
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1 Plaintiff, Mesafint Gebremariam, individually and on behalf of other members of the
2 nationwide and statewide classes he seeks to represent, as described below, for his Class Action
3 Complaint alleges against Defendant General Motors, LLC (“GM”), upon personal knowledge as
4 to himself and his own acts, and as to all other matters upon information and belief, based upon
5 the investigation made by Plaintiff and Plaintiff’s attorneys, as follows:

6 **I. INTRODUCTION**

7 1. Plaintiff brings this class action on behalf of all persons in the United States who
8 own or lease one or more of the following GM vehicles: 2009-2014 Chevrolet Cruze, 2005-2011
9 Chevrolet Cobalt, 2006-2011 Chevrolet HHR, 2006-2011 Pontiac G5, 2006-2011 Pontiac
10 Solstice, 2003-2007 Saturn Ion, 2007-2011 Saturn Sky, 2003-2007 Cadillac CTS, 2004-2009
11 Cadillac SRX, 2005-2009 Saab 9-7x, 2004-2012 Chevrolet Malibu and 2007-2010 Saturn Aura,
12 as set forth herein, (collectively the “Defective Vehicles”).

13 **A. Chevrolet Cruze – Front Axle Right Half Shaft Fracture Defect**

14 2. Since at least model year 2013, GM has designed, manufactured, promoted,
15 marketed and sold defective Chevrolet Cruzes throughout the United States, including the State of
16 California, that pose known and significant dangers to unsuspecting drivers, passengers,
17 pedestrians, and the other motorists and cars on the road. The Chevy Cruze is the successor
18 vehicle to the Cobalt in North America, with model year 2011 going on sale in late 2010.

19 3. GM allowed these dangers to persist without taking adequate measures to
20 eliminate the dangers and without taking adequate measures to notify the public and the
21 government of the design defects. GM has completely disregarded the safety of its customers and
22 the public and continues to jeopardize public safety.

23 4. GM has recalled 174,046 Chevy Cruze vehicles, model years 2013 and 2014, with
24 1.4-liter turbocharged four-cylinder gasoline engines, because there is a serious safety defect in
25 the power train, axle assembly. The interconnecting tubular bar on the front right axle half shaft
26 may fracture and separate, resulting in power loss to the vehicle. GM reported that it had
27 warranty reports of several dozen shaft fractures. The March 2014 Product Safety Recall Bulletin
28 No. 14079 informs service providers to inspect the right (passenger side) half shaft near the front

1 wheel. If the green stripe is not present on the half shaft, it is to be replaced. See Diagram Nos. 3
2 (with green) and No. 4 (without green):



8 5. On September 13, 2013, GM first recalled only “certain model year 2013 and 2014
9 Chevrolet Cruze vehicles equipped with manual transmissions (MF3/MR5) and manufactured
10 January 24, 2013, through August 1, 2013. On the affected vehicles, **the right front half shaft**
11 **may fracture and separate.**” (September 13, 2013 Recall Notice from U.S. Department of
12 Transportation, National Highway Traffic Safety Administration (“NHTSA”) website,
13 www.safercar.gov) (emphasis added).

14 6. The “Consequence” is: If the half shaft fractures and separates while driving, **the**
15 **vehicle would lose power** and coast to a stop. If a vehicle with a fractured half shaft is parked
16 without the parking brake applied, the vehicle could move unexpectedly. **Either condition**
17 **increases the risk of a crash.**” (*Id.*) (emphasis added).

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— RECALL Subject : Front Right Half Shaft may Fracture

Report Receipt Date: SEP 23, 2013
NHTSA Campaign Number: 13V452000
Component(s): POWER TRAIN

All Products Associated with this Recall ▼

Details ▲ 5 Associated Documents

Manufacturer: General Motors LLC

SUMMARY:
General Motors (GM) is recalling certain model year 2013 and 2014 Chevrolet Cruze vehicles equipped with manual transmissions (MF3/MR5) and manufactured January 24, 2013, through August 1, 2013. On the affected vehicles, the right front half shaft may fracture and separate.

CONSEQUENCE:
If the half shaft fractures and separates while driving, the vehicle would lose power and coast to a stop. If a vehicle with a fractured half shaft is parked without the parking brake applied, the vehicle could move unexpectedly. Either condition increases the risk of a crash.

REMEDY:
General Motors has notified owners. Dealers will replace the half shaft assembly, free of charge. The safety recall began on October 15, 2013. Owners may contact General Motors at 1-800-521-7300. This is General Motors campaign number 13276.

NOTES:
Owners may also contact the National Highway Traffic Safety Administration Vehicle Safety Hotline at 1-888-327-4236 (TTY 1-800-424-9153), or go to www.safercar.gov.

☐ Request Research

7. On March 28, 2014, GM recalled all Chevy Cruze vehicles “equipped with a 1.4L turbo engine, and manufactured between November 28, 2012, and March 7, 2014. On the affected vehicles, **the right front half shaft may fracture and separate.**” (March 28, 2014 Recall Notice) (emphasis added).

2014 CHEVROLET CRUZE

Recalls	Investigations	Complaints	Service Bulletins
3	0	13	8

Have a safety-related Complaint? Let us know by going to our [File a Complaint Page](#)

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Recalls | Investigations | Complaints | Service Bulletins

RECALLS: Displaying 1 - 3 out of 3

RECALL Subject: Front Right Half Shaft may Fracture

Report Receipt Date: MAR 31, 2014
NHTSA Campaign Number: 14V151000
Component(s): POWER TRAIN

[All Products Associated with this Recall](#)

[Details](#) [5 Associated Documents](#)

Manufacturer: General Motors LLC

SUMMARY:
General Motors LLC (GM) is recalling certain model year 2013 and 2014 Chevrolet Cruze vehicles equipped with a 1.4L turbo engine, and manufactured between November 28, 2012, and March 7, 2014. On the affected vehicles, the right front half shaft may fracture and separate.

CONSEQUENCE:
If the half shaft fractures and separates while driving, the vehicle would lose power and coast to a stop. If a vehicle with a fractured half shaft is parked without the parking brake applied, the vehicle could move unexpectedly. Either condition increases the risk of a crash.

REMEDY:
GM will notify owners, and dealers will inspect and replace the right half shaft, as needed, free of charge. Parts for the remedy are not currently available. GM will send an interim letter to owners the week of April 28, 2014. A second owner letter will be mailed when parts are available. Owners may contact Chevrolet at 1-866-694-6546. GM's number for this recall is 14079. This is an expansion of recall 13V-452. NOTE: Some vehicles subject to this recall were subject to the recall campaign initiated in 2013. Some of those vehicles were repaired using defective parts. Those owners will be advised that they must have their vehicles remedied again under this campaign and that having the earlier recall completed did not remedy their vehicles.

NOTES:
Owners may also contact the National Highway Traffic Safety Administration Vehicle Safety Hotline at 1-888-327-4236 (TTY 1-800-424-9153), or go to [www.safercar.gov](#).

☐ Request Research

8. The same “Consequence” is: “If the half shaft fractures and separates while driving, **the vehicle would lose power** and coast to a stop. If a vehicle with a fractured half shaft is parked without the parking brake applied, the vehicle could move unexpectedly. **Either condition increases the risk of a crash.**” (*Id.*) (emphasis added). The March 2014 recall covers about 2,500 replacement shafts used to fix the manual transmission Cruzes after the September 2013 recall. This means that the replacements were defective as well.

9. GM knew there was the serious risk of harm with all Chevy Cruzes before it initiated the first recall for manual transmissions, yet failed to recall all 1.4L automatic transmissions. This failure and GM’s hiding of this defect resulted in defective manual transmission Cruzes being sold to the unsuspecting public, including the Class Representative,

1 Mesafint Gebremariam. He purchased his automatic transmission Cruze on November 13, 2013,
2 two months *after* the first recall. He would not have purchased it had he known about this defect.

3 **B. Ignition Switch and Related Defects**

4 10. For over ten years, GM has designed, manufactured, promoted, marketed and sold
5 Defective Vehicles that pose known and significant dangers to unsuspecting drivers, passengers,
6 pedestrians, and the other motorists and cars on the road. GM allowed these dangers to persist
7 without taking adequate measures to eliminate the dangers and without taking adequate measures
8 to notify the public and the government of design defects. GM has jeopardized and continues to
9 jeopardize public safety, and has had a corporate culture of complete disregard for the safety
10 concerns of its customers and the safety of the public at large.

11 11. The ignition switch defects can cause the vehicle's engine and electrical system to
12 shut off, disabling the power steering and power brakes and causing the non-deployment of the
13 vehicle's air bags in the event of a crash. The Defective Vehicles are, thus, unreasonably prone to
14 be involved in accidents, which will likely result in serious bodily harm or death to the drivers,
15 passengers as well as other motorists and pedestrians.

16 12. Going back to at least 2001, GM learned that vehicles it designed, manufactured,
17 promoted and sold contained defective ignition switches. GM took no action to remedy or
18 mitigate the danger inherent in this faulty system to drivers, passengers, pedestrians and the other
19 motorists and cars on the road. These defective vehicles have caused at least **thirteen (13) deaths**
20 **and thirty-two (32) crashes**, likely including the Class Representative, Mesafint Gebremariam on
21 April 11, 2014.

22 13. There have been three recalls related to the defective ignition switches; the latest
23 being issued on April 10, 2014. GM has issued recalls for the following models:

24 **February 13 and 25, 2014:**

25 2005 – 2007 Chevrolet Cobalt
26 2005 – 2007 Pontiac G5
27 2003 – 2007 Saturn Ion
28 2006 – 2007 Chevrolet HHR
2006 – 2007 Pontiac Solstice
2007 Saturn Sky

March 28, 2014:

2008 – 2011 Pontiac Solstice
2008 – 2011 Pontiac G5
2008 – 2011 Saturn Sky
2008 – 2011 Chevrolet Cobalt
2008 – 2011 Chevrolet HHR

April 10, 2014:

2005 – 2010 Chevrolet Cobalt
2006 – 2011 Chevrolet HHR
2007 – 2010 Pontiac G5
2006 – 2010 Pontiac Solstice
2003 – 2007 Saturn Ion
2007 – 2010 Saturn Sky

14. With respect to the February 13, February 25 and March 28, 2014 recalls, the defective ignition switches have switch points, including “RUN” or “ON,” “OFF,” and “ACC” or “accessory.” When the ignition switch is in the “RUN” position, the vehicle’s motor engine is running and the electrical system is activated. When the ignition switch is in the “ACC” position, the motor is turned off but electrical power is activated, supplying electricity to the vehicle’s entertainment system. When the ignition is in the “OFF” position, both the engine and electrical systems are turned off.

15. The February 7, 2014 GM letter to NHTSA first informing the NHTSA of the problem explained the problem as follows:

The ignition switch torque performance may not meet General Motor’s specification. If the torque performance is not to specification, and the key ring is carrying added weight or the vehicle goes off road or experiences some other jarring event, the ignition switch may inadvertently be moved out of the “run” position. The time of the key movement out of the “run position, relative to the activation of the sensing algorithm of the crash event, may result in the airbags not deploying, increasing the potential for occupant injury in certain kinds of crashes. Until this correction is performed, customers should remove non-essential items from their key ring. Dealers are to replace the ignition switches.

16. The ignition switches are loose and improperly positioned, making the switches prone to failure during usual and expected conditions. The ignition switch can suddenly and without warning move from the “ON” or “RUN” position to the “OFF” or “ACC” position. When

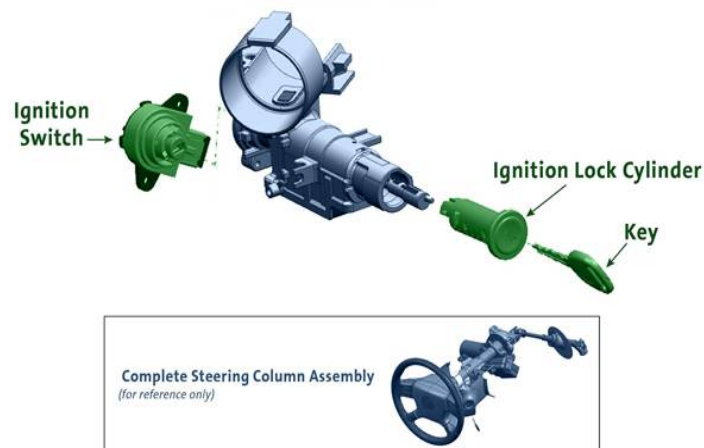
1 this, the “Ignition Switch Defect” happens, the motor engine and certain important electrical
2 components, including the power-assisted steering, anti-lock brakes, seatbelt pretensioners and
3 airbags, are abruptly turned off. The ignition can suddenly switch to “OFF” while the Defective
4 Vehicle is moving at expected speeds, for example, 65-70 mph on the highway. When this
5 happens, the driver is left without the necessary means to control the vehicle, the safety airbag
6 system is compromised and the vehicle’s driver, passengers, other motorists, pedestrians and cars
7 are at serious risk of injury or death.

8 17. With respect to the most recent recall on April 10, 2014, involving the same
9 vehicles, GM issued an additional recall because “the key can be removed from the ignition when
10 the ignition is not in the “Off” position.” (April 10, 2014 Recall Notice.) The “Consequence” is:
11 “If the key can be removed from the ignition when the ignition is not in the ‘off’ position, **the**
12 **vehicle could roll away:** (a) for an automatic transmission, if the transmission is not in the “Park”
13 position; or (b) for a manual transmission, if the parking brake is not engaged and the
14 transmission is not in the ‘Reverse’ position. **This potential for rollaway increases the risk for**
15 **a crash and occupant or pedestrian injuries.”** (*Id.*) (emphasis added). GM Safety recall 14113
16 is for key replacements while GM Safety recall 14133 is for replacement of the ignition lock
17 cylinder and key replacement.

18 18. Below is an illustration of the defective ignition switch, which includes the
19 components contained in latest recall:

20 PARTS INVOLVED IN GM IGNITION RECALLS

21 This diagram displays the three parts that are affected by the recalls for the Chevrolet Cobalt,
22 Pontiac G5, Saturn ION, Chevrolet HHR, Pontiac Pursuit, Pontiac Solstice, and Saturn Sky.



1 19. GM began installing defective ignition switch systems in 2003 models. All the
2 while knowing of the Ignition Switch Defect, GM designed, manufactured, promoted, marketed
3 and sold over 2.6 million Defective Vehicles per its own admission, including the following
4 models:

- 5 • 2005-2011 Chevrolet Cobalt
- 6 • 2006-2011 Chevrolet HHR
- 7 • 2006-2011 Pontiac Solstice
- 8 • 2003-2007 Saturn Ion
- 9 • 2007-2011 Saturn Sky
- 10 • 2005-2011 Pontiac G5

11
12 20. The defective ignition switches were manufactured by Delphi Automotive PLC
13 (“Delphi”), a former subsidiary of Old GM, which became an independent publicly held
14 corporation in 1999. Delphi knew that its ignition switches were defective and did not meet GM
15 torque specifications, yet continued to manufacture and sell the defective ignition switch systems,
16 knowing they would be used in the Defective Vehicles.

17 21. The number of defective vehicles likely exceeds **3,000,000 (3 Million)** as Delphi
18 reported in an April 11, 2014 letter to the NHTSA that it supplied ignition switches to either GM
19 directly, a tier supplier of GM or a Delphi division that supplied the ignition switch to GM as part
20 of a larger sub-assembly for the above-listed vehicles as well as the following makes and models:

- 21 • 2003-2007 Cadillac CTS
- 22 • 2004-2009 Cadillac SRX
- 23 • 2005-2009 Saab 9-7x
- 24 • 2004-2012 Chevrolet Malibu
- 25 • 2007-2010 Saturn Aura

26 (April 11, 2014 Delphi Letter with Listing of Vehicle Manufacturers and Third Parties Who Were
27 Supplied Ignition Switches, NHTSA-IGN-000001.) See Table “Listing of Vehicle Manufacturers
28 and Third Parties Who Were Supplied Ignition Switches”:

**LISTING OF VEHICLE MANUFACTURERS AND THIRD PARTIES WHO WERE SUPPLIED
IGNITION SWITCHES FROM 1999 TO PRESENT**

OEM/Third Party Invoice	Notes	Vehicle Make	Vehicle Model	Model Years
Koyo Steering Systems USA ¹	Production	Saturn	Ion	2003-2004
GM	Service			
Koyo Steering Systems USA ¹	Production	Chevrolet	Cobalt HHR	2005-2007
JTEKT North America ¹		Pontiac	G5 Solstice	2006-2007
GM	Service	Saturn	Sky Ion	2006-2007 2005-2007
JTEKT North America ¹	Production	Chevrolet	Cobalt HHR	2008-2010
GM	Service	Pontiac	G5	2008-2009
		Saturn	Solstice Sky	2008-2009
Delphi Saginaw ²	Production	Cadillac	CTS SRX	2003-2007
GM	Service			2004-2006
Delphi Saginaw ² /Nexteer ¹	Production	Cadillac	SRX	2007-2009
GM	Service			
IAC ¹ /Lear Huron ¹	Production	Saab	9-7x	2005-2009
GM	Service			
Delphi Safety & Interior ²	Production	Chevrolet	Malibu	2004
GM	Service			
Delphi Safety & Interior ²	Production	Pontiac	G6	2005-2006
GM	Service	Chevrolet	Malibu	2005-2006
Delphi Safety & Interior ²	Production	Pontiac Chevrolet Saturn	G6 Malibu Aura	2007-2010
Delphi Thermal ²				2007-2010
Inteva ¹				2007-2010
GM				Service
Inteva ¹	Production	Chevrolet	Malibu	2011-2012
GM	Service			

25. This court has subject-matter jurisdiction over this action under the Class Action Fairness Act of 2005, 28 U.S.C. § 1332 (a) & (d). The amount in controversy for the Class exceeds \$5,000,000, exclusive of interest and costs. There are more than 100 Class members and members of the class are diverse from GM.

27. Venue is proper in this District under 28 U.S.C. § 1391 because GM, a corporation, is deemed to reside in any judicial district in which it is subject to personal jurisdiction, and GM transacts business within the District, with its headquarters for the Western Region in Thousand Oaks, County of Ventura, within this District. Venue is also proper in this District as some of the events establishing the claims arose in this District.

A. Plaintiffs

24 29. Induced by GM's misrepresentations and fraudulent concealment about the
25 existence of defects, and the severity and extent of defects, which left him without knowledge of
26 the conditions or the lack of value in a vehicle containing such unremedied defects, Plaintiff
27 purchased his Cruze new on November 13, 2013 from Stewart Chevrolet in Colma, California.
28 He paid \$31,240 for the vehicle, including taxes, service protections and fees, not knowing that,

1 as sold, it was defective.

2 30. On or about April 11, 2014, while Plaintiff was driving his Cruze on Oak Street in
3 San Francisco, the Cruze suddenly, and without warning, shut off. The vehicle lost power as he
4 was going down hill. The vehicle continued downhill without power to the motor, steering or
5 brakes. The vehicle finally came to rest after hitting parked cars, and crashing into another
6 vehicle being driven in front of him. The airbags did not deploy.

7 31. GM should have disclosed the defects when Plaintiff purchased the vehicle.
8 Plaintiff would not have purchased the vehicle had he known of the defects.

9 **B. Defendant**

10 32. Defendant GM is a Delaware corporation with its principal place of business
11 located at 300 Renaissance Center, Detroit, Michigan. GM was incorporated in 2009, and on July
12 10, 2009 acquired substantially all assets and assumed certain liabilities of General Motors
13 Corporation ("Old GM") through a Section 363 sale under Chapter 11 of the U.S. Bankruptcy
14 Code.

15 33. GM contractually assumed liability for the claims in this lawsuit arising before the
16 Defective Vehicles were originally designed, manufactured, marketed and distributed into the
17 stream of commerce by Old GM.

18 34. The fact that GM has initiated and is conducting a recall (although not complete)
19 of Defective Vehicles, it is legally responsible for those vehicles still on the road and recognizes
20 that it is responsible for those vehicles despite old GM's bankruptcy.

21 35. The Purchased Assets of GM in the Amended and Restated Master Sale and
22 Purchase Agreement include in Section 2.2, "Purchased and Excluded Assets":

23 (viii) all inventories of vehicles, raw materials, work-in-process, finished goods, supplies,
24 stock, parts, packaging materials and other accessories related thereto (collectively,
25 "Inventory"), wherever located, including any of the foregoing in the possession of
26 manufacturers, suppliers, customers, dealers or others and any of the foregoing in transit
or that is classified as returned goods;...

27 (xiv) all books, records, ledgers, files, documents, correspondence, lists, plats,
28 specifications, surveys, drawings, advertising and promotional materials, reports and other
materials (in whatever form or medium), including Tax books and records and Tax

1 Returns used or held for use in connection with the ownership or operation of the
2 Purchased Assets or Assumed Liabilities, including the Purchased Contracts, customer
3 lists, customer information and account records, computer files, data processing records,
4 employment and personnel records, advertising and marketing data and records, credit
5 records, records relating to suppliers, legal records and information and other data;

6 (xv) all goodwill and other intangible personal property arising in connection with the
7 ownership, license, use or operation of the Purchased Assets or Assumed Liabilities;

8 36. GM is, therefore, the owner of all “vehicles” and “finished goods” (such as
9 vehicles) of old GM, “wherever [they are] located,” and including any such vehicles or finished
10 goods in the “possession of” “customers.” The Defective Vehicles in the possession of GM
11 customers were and are a “Purchased Asset” of GM under the Agreement.

12 37. Under the Agreement, GM is also the owner of all of old GM’s documents and has
13 knowledge thereof. The contents of those documents are imputed to GM. Notice of defects
14 contained in documents of “Old GM” is part of GM’s composite knowledge as a corporation.

15 38. Under the Agreement, GM not only “Purchased Assets,” but “Assumed
16 Liabilities,” which included “all Liabilities arising out of, relating to, in respect of, or in
17 connection with the use, ownership or sale of the Purchased Assets after the Closing.”
18 “Liabilities” was a defined term meaning “any and all liabilities and obligations of every kind and
19 description whatsoever, whether such liabilities or obligations are known or unknown, disclosed
20 or undisclosed, matured or unmatured, accrued, fixed, absolute, contingent, determined or
21 undeterminable, on or off-balance sheet or otherwise, or due or to become due, including
22 Indebtedness and those arising under any Law, Claim, Order, Contract or otherwise.”

23 39. Among the liabilities expressly retained by GM after the bankruptcy are the
24 following:

25 From and after the Closing, Purchaser [GM] shall comply with the certification, reporting
26 and recall requirements of the National Traffic and Motor Vehicle Act, the Transportation
27 Recall Enhancement, Accountability and Documentation Act, the Clean Air Act, the
28 California Health and Safety Code, and similar laws, in each case, to the extent applicable
in respect of vehicles and vehicle parts manufactured or distributed by [Old GM].
GM also expressly assumed:

[A]ll Liabilities arising under express written warranties of [Old GM] that are specifically
identified as warranties and delivered in connection with the sale of new, certified used or

1 pre-owned vehicles or new or remanufactured motor vehicle parts and equipment
2 (including service parts, accessories, engines and transmissions) manufactured or sold by
3 [Old GM] or Purchaser prior to or after the Closing and (B) all obligations under Lemon
4 Laws.

5 40. Since GM acquired and operated Old GM and ran it as a continuing business
6 enterprise, and because GM was aware from its inception of the ignition switch defects in the
7 Defective Vehicles, GM is liable through successor liability for the acts and omissions of Old
8 GM, as alleged in this Complaint.

9 **IV. CLASS ACTION ALLEGATIONS**

10 41. Under FRCP Rules 23(a), (b)(2), b(3) and/or c(4), Plaintiff brings this action on
11 behalf of himself, individually, and on behalf of all others similarly situated. This action satisfies
12 the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements
13 of those provisions. The Class is initially defined as follows:

14 **Nationwide Class**

15 All persons in the United States who purchased or leased one or more of the following
16 GM vehicles: 2009-2014 Chevrolet Cruze, 2005-2011 Chevrolet Cobalt, 2006-2011
17 Chevrolet HHR, 2006-2011 Pontiac G5, 2006-2011 Pontiac Solstice, 2003-2007 Saturn
18 Ion, 2007-2011 Saturn Sky, 2003-2007 Cadillac CTS, 2004-2009 Cadillac SRX, 2005-
19 2009 Saab 9-7x, 2004-2012 Chevrolet Malibu, 2007-2010 Saturn Aura and any other GM
20 vehicles model containing the same ignition switch and/or front axle right half shaft
21 (“Class Members”).

22 42. Plaintiff also brings this action on behalf of the following **California State Class**:
23 All Class Members who purchased or leased a Class Vehicle in the State of California. Together,
24 the Nationwide and California State Class are referred to as the “Class.”

25 43. Excluded from the Class are any individuals claiming damages from personal
26 injuries allegedly arising from the Defective Vehicles. But the increased risk of injury from the
27 defects serves as an independent justification for the relief sought by Plaintiff and the Class.

28 44. Excluded from the Class are GM and its legal representatives, parents, affiliates,

1 heirs, successors, assigns, and any other person who engaged in the improper conduct described
2 herein (the “Excluded Persons”). Also excluded are any individuals claiming personal injuries
3 allegedly arising from the Defective Vehicles.

4 45. **Numerosity:** Plaintiff is informed and believe that the number of individuals who
5 have purchased Defective Vehicles in the last ten years in the United States alone is over 3
6 million (3,000,000) people. The Class is so numerous that joinder of all Class members is
7 impracticable. The Class can be readily identified through registration records, sales records,
8 production records and other information kept by GM or third parties in the usual and normal
9 course of business and within their control.

10 46. **Existence and Predominance of Common Questions of Law & Fact:** Common
11 questions of law and fact exist as to the Class and predominate over questions affecting only
12 individual members, including the following:

- 13 a. Whether the Defective Vehicles suffer from the defects;
- 14 b. Whether GM engaged in a deceptive and unlawful advertising and marketing
15 campaign by concealing serious defects in its vehicles;
- 16 c. Whether GM misrepresented that the Defective Vehicles were safe;
- 17 d. Whether and to the extent GM breached its express warranties relating to the
18 safety and quality of its vehicles;
- 19 e. Whether and to the extent GM breached any implied warranties relating to the
20 safety and quality of its vehicles;
- 21 f. Whether GM engaged in fraudulent concealment;
- 22 g. Whether and to the extent GM engaged in unfair, false, misleading, or
23 deceptive acts or practices regarding its marketing and sale of its vehicles;
- 24 h. Whether the alleged conduct by GM violated laws as Plaintiff alleges,
- 25 i. Whether GM has been unjustly enriched as a result of the conduct complained
26 of herein;
- 27 j. Whether GM’s conduct complained of herein is intentional and knowing;
- 28 k. Whether Plaintiff and members are entitled to damages, restitution,

1 disgorgement of profits, declaratory relief, punitive damages, and/or injunctive
2 relief, and were harmed as a result of GM's conduct complained of herein; and

- 3 1. Whether, and to what extent, GM has successor liability for the acts and
4 omissions of Old GM.

5 47. **Typicality:** Plaintiff's claims are typical of the claims of other members of the
6 Class in that Plaintiff and other Class members received the same standardized
7 misrepresentations, warranties, and nondisclosures about the safety and quality of GM's vehicles.
8 GM's misrepresentations were made pursuant to a standardized policy and procedure
9 implemented by GM. Plaintiff is a member of the Class that Plaintiff seeks to represent and has
10 suffered harm due to the unfair, deceptive, unreasonable, and unlawful practices of GM.

11 48. **Adequacy of Representation:** Plaintiff will fairly and adequately represent the
12 interests of the Class. Plaintiff's interests are coincident with, and not antagonistic to, those of the
13 Class that Plaintiff seeks to represent. Plaintiff is represented by attorneys experienced in product
14 liability, consumer protection and class action litigation, who intend to prosecute this action
15 vigorously for the benefit of Plaintiff and all Class members. Plaintiff and Plaintiff's counsel will
16 fairly and adequately protect the interests of the Class members.

17 49. **Superiority:** A class action is superior to and is the best available method for the
18 fair and efficient adjudication of this controversy since joinder of all individual Class members is
19 impracticable. As the damages suffered by each individual Class member may be relatively
20 small, the expense and burden of individual litigation would make it very difficult or impossible
21 for individual Class members to redress the wrongs done to each individually. Individual
22 litigation of Class members' claims would be unduly burdensome to the courts and have the likely
23 potential to result in inconsistent or contradictory judgments. There are no unusual difficulties
24 likely to be encountered in the management of this litigation as a class action. A class action
25 presents fewer management problems and provides the benefits of single adjudication, economies
26 of scale, and comprehensive supervision by a single court.

27 50. **Proper Maintenance of the Class:** Defendant GM has acted or refused to act,
28 with respect to some or all issues presented in this Complaint, on grounds generally applicable to

1 the Class, thereby making it appropriate to provide relief with respect to the Class as a whole.
2 Plaintiff is not aware of any obstacles likely to be encountered in the management of this action
3 that would preclude its maintenance as a class action. Plaintiff anticipates providing appropriate
4 notice to be approved by the Court after discovery into the size and nature of the Class.

5 **V. FACTUAL ALLEGATIONS**

6 **A. Front Axle Right Half Shaft Fracture Defect**

7 51. In addition to facts contained in the preceding Sections, Plaintiff further alleges as
8 follows. GM knew of the defects since before the first recall in September 2013. On September
9 23, 2013, GM submitted a notification letter to the NHTSA pursuant to 49 C.F.R. § 573.6, stating
10 that it had decided to conduct a safety recall for certain model year 2013-2014 Chevrolet Cruzes
11 built between January 24, 2013 and August 1, 2013, equipped with a manual transmission only.
12 Although all Cruze vehicles, whether equipped with manual or automatic transmissions, use half
13 shafts containing tubular bars manufactured by GM's Korea Delphi Automotive Systems
14 Corporation ("KDAC"), GM only recalled the manual transmission Cruzes at that time. GM
15 reported that its engineers believed that the bars in the manual Cruze vehicles might be more
16 likely to fracture because they experienced higher torque loads under various operating conditions
17 than the bars in the automatic transmission Cruzes. See discussion of recall, Section I, *supra*.

18 52. On or around November 22, 2013, GM reported that it allegedly received its first
19 report of a fractured tubular bar in an automatic transmission Cruze. After this report, GM
20 reported that it continued to monitor claims of fractured tubular bars in half shafts in automatic
21 Cruzes. By December 17, 2013, GM received another report of a fractured tubular bar in another
22 automatic transmission Cruze.

23 53. In 2014, GM continued to receive additional reports of fractured half shafts on
24 automatic transmission Cruzes. For example:

- 25 • On January 29, 2014, Nexteer submitted a report documenting four (4) instances of
26 tubular bar fractures in automatic transmission Cruzes. Those vehicles were built between
27 February 10 and May 28, 2013.
28 • On February 5, 2014, Avis Car Rental, which has a large fleet of Cruzes, reported that the

1 axle in a model year 2013 Cruze, with an automatic transmission, had broken. GM
2 learned upon inspection that the problem was a fractured tubular bar on the half shaft.

- 3 • On February 13, 2014, a GM employee conducted a warranty database search for claims
4 related to fractured half shafts in automatic transmission Cruzes. That search identified
5 **thirty (30) claims of fractured half shafts** in model year 2013 Cruzes built between
6 January 24 and May 28, 2013.
7 • By February 19, 2014, GM had learned of at least **forty-seven (47) claims of fractured**
8 **half shafts** in model year 2013-14 automatic transmission Cruze vehicles.

9 54. After the 2013 recall, GM continued to receive reports of fractured half shafts on
10 manual transmission Cruze vehicles. For example:

- 11 • GM had three warranty claims for fractured half shafts made on February 10, 13 and 20,
12 2014, involving manual transmission Cruze vehicles, whose half shafts had been replaced
13 in October 2013 as part of Safety Recall 13276 (13V-452).
14 • GM had warranty claims for fractured half shafts in three manual transmission Cruze
15 vehicles built in August and September 2013. The existence of fractured half shaft bars in
16 Cruze vehicles built after August 1, 2013, and in vehicles that had been serviced under
17 Safety Recall 13276, show that the procedures that had been implemented (eddy-current
18 testing of all tubular bars on half shafts used in automatic transmission Cruze vehicles)
19 had not screened all defective bars from the supply stream.

20 55. On March 6, 2014, a GM engineer documented the vehicle build dates for manual
21 and automatic transmission Cruze vehicles with fractured tubular bars. The earliest build date for
22 such a vehicle was January 24, 2013, and the latest build date was September 25, 2013. On
23 March 17, 2014, GM's Field Performance Evaluation Review Committee learned of the issue and
24 recommended a recall of model year 2013-2014 manual transmission Cruze vehicles built
25 between January 24, 2013 and March 7, 2014, and model year 2013-2014 automatic transmission
26 Cruze vehicles built between January 23, 2013 and January 8, 2014.

27 56. On March 19, 2014, the issue was presented to the Executive Field Action
28 Decision Committee ("EFADC"). The presentation to the EFADC identified 2013-2014 manual

1 transmission Cruzes built between January 24, 2013 and March 7, 2014, and 2013-2014
2 automatic transmission Cruzes built between January 23, 2013 and January 8, 2014, as potentially
3 containing defective tubular half shaft bars. The EFADC requested additional consideration of
4 the vehicle build dates included in the proposed recall.

5 57. At a second EFADC presentation on March 26, 2014, the recall window was
6 revised to include manual Cruzes vehicles built between November 28, 2012 and March 7, 2014,
7 and automatic Cruzes built between November 28, 2012 and January 8, 2014. The EFADC
8 directed a safety recall accordingly.

9 58. The end date of the recall window for automatic transmission vehicles was set
10 earlier than the end date of the recall window for manual transmissions because the automatic
11 transmission vehicles were built in higher volumes, and GM has allegedly exhausted the supply of
12 now-suspect tubular bars more quickly and began using bars produced with the revised
13 normalization process sooner.

14 59. The safety recall includes some manual transmission Cruze vehicles serviced
15 under Safety Recall 13276 (first recall in September 2013) that may have received half shafts
16 containing bars normalized before the implementation of improved normalization procedures in
17 October and November 2013. On March 27, 2014, GM notified its dealers to stop delivering
18 these Cruze vehicles.

19 60. On March 28, 2014, GM informed the NHTSA that it intended to conduct the
20 safety recall for those model year 2013-2014 Cruze vehicles, with both automatic and manual
21 transmissions.

22 61. GM knew that there was the serious risk of harm with all Chevy Cruzes before it
23 initiated the first recall for manual transmissions, yet failed to recall all 1.4L automatic
24 transmissions. This failure and GM's hiding of this defect resulted in defective manual
25 transmission Cruzes being sold to the unsuspecting public.

26 **B. Ignition Switch and Related Defects**

27 **1. The \$.57 Per Vehicle Fix that GM Failed to Implement**

28 62. In addition to facts contained in the preceding Sections, Plaintiff further alleges as

1 follows. GM waited nearly a decade to recall over 2.6 million Defective Vehicles, knowing that
2 moving of or too much weight on the ignition key could cause the switch to move from the “ON”
3 to the “ACC” position, thereby cutting power to steering, brakes, seatbelt pretensioners and
4 airbags.

5 63. On April 1, 2014, GM Chief Executive Officer Mary Barra testified before the
6 United State’s House Oversight and Investigations Subcommittee. She called GM’s slow
7 response to at least 13 deaths linked to faulty ignition switches “unacceptable.” Ms. Barra,
8 however, was unable to provide Congress with answers as to why GM continued to sell Defective
9 Vehicles.

10 64. During the April 2014 testimony, GM admitted that the cost to fix the Ignition
11 Switch Defect was only **57 cents (\$0.57)**. When questioned why GM did not spend the money to
12 fix the Ignition Switch Defect, Ms. Barra testified that GM “had more of a cost culture” rather
13 than a customer safety culture.

14 65. Ms. Barra has admitted in a video message to employees on March 17, 2014:
15 “Something went wrong with our process in this instance, and terrible things happened.” Ms.
16 Barra testified to Congress that people in one part of GM “didn’t recognize information that
17 would be valuable in another part of the company.” GM had a cultural landscape where
18 employees worked isolated from other departments and critical information.

19 66. GM’s Vehicle Safety Chief, Jeff Boyer has stated: “Nothing is more important
20 than the safety of our customers in the vehicles they drive.” GM failed to live up to this
21 commitment. GM claims that safety will always be a priority at GM: “We continue to emphasize
22 our safety-first culture in our facilities, and as we grow our business in new markets. Our safety
23 philosophy is at the heart of the development of each vehicle. In addition to safety, delivering the
24 highest quality vehicles is a major cornerstone of our promise to our customers.” GM violated
25 this “safety” principle by putting the lives and safety of millions of Americans at risk.

26 67. It is crucial for the safety of the public that automobile safety features that can
27 prevent or minimize death or serious bodily harm in a collision operate safely, and that vehicles’
28 safety critical systems, e.g., power to the engine, braking, seatbelt and airbag systems, work

1 properly and safely. A manufacturer that is aware of dangerous design defects that cause its
2 vehicles to shut down during operation and its airbags not to deploy must promptly disclose and
3 remedy such defects. GM, however, concealed and did not fix serious quality and safety defects
4 in its mass of vehicles.

5 68. Old GM and GM knew of the deadly ignition switch defects and the resulting
6 dangerous consequences, but concealed their knowledge from potential customers who ultimately
7 became Defective Vehicle owners.

8 **2. GM Promoted the Defective Vehicles as “Safe” and “Reliable”**

9 69. The defects could have been easily avoided. GM was on notice of the serious
10 safety issues presented by its ignition switch system and knew about the problems before the
11 subject vehicles were even sold. After being sold, GM received numerous reports of crashes and
12 injuries that further put GM on notice. GM, however, for over a decade, did not disclose to
13 consumers that its vehicles, which were advertised year after year as “safe” and “reliable” were
14 anything but safe and reliable.

15 70. Old GM consistently promoted the Defective Vehicles as safe and reliable. For
16 instance, ads and promotional materials made the following claims regarding safety and
17 reliability:

- 18 • A Cobalt ad promised: “Side curtain airbags coupled with OnStar makes every
19 journey the safest possible to assure that you and your occupants will stay safe at all
20 times.”
- 21 • A 2001 print ad touting the launch of the Saturn focused on safety:
22 “Need is where you begin. In cars, it’s about things like reliability, durability and, of
23 course, safety. That’s where we started when developing our new line of cars. And it
24 wasn’t until we were satisfied that we added things...”
- 25 • 2003 Saturn Ion: “The Ion sedan and quad coupe are designed to carry on the tradition
26 of being at the top of the class when it comes to safety and security.”
- 27 • 2006 and 2007 Saturn Ion: “Like all Saturns, the Ion was designed with an emphasis
28 on safety and security.”
- An ad for the 2006 Pontiac Solstice promises that the vehicle: “Brings power and
defines performance.”
- 2006 Pontiac G5: “The 2006 Pontiac G5 Pursuit offers a host of features for safety-
minded consumers.”
- 2006 Chevrolet HHR: “HHR is designed to protect occupants in the event of a crash.”

- 2007 Saturn Sky: “Shy has a host of safety features. . . including dual stage frontal air bags. . . that use the latest sensing technology to turn the front passenger air bag on or off.”

Old GM made these representations to increase vehicle sales and maximize profits while knowing that the ignition switches in the Defective Vehicles were defective.

71. At all times relevant herein, Old GM and GM possessed superior knowledge and information to that of consumers – if not exclusive information – about the design and function of the ignition switches in the Defective Vehicles and the existence of the defects in those vehicles. Yet, GM never informed consumers about the ignition switch defects before the first recall on February 13, 2014 recall.

3. GM Knew of the Defects for Years, But Concealed the Defects from Plaintiff and the Class

72. Every year from 2005 to 2012, first Old GM and then GM received reports of deaths in Cobalts involving steering and/or airbag failures. Reports for those years included:

- **2005:** 26 death and injury accidents, including sixteen year-old Megan Phillips, who was driving a 2005 Cobalt that crashed in Wisconsin in 2006, killing two of her teenage friends. NHTSA investigators found that the key had moved from the “run” to the “accessory” position, turning off the engine and disabling the airbags.
- **2006:** 69 death and injury accidents, including 2 deaths listing airbags as component involved.
- **2007:** 87 death and injury accidents, including 3 deaths listing airbags as component involved.
- **2008:** 106 death and injury accidents, including 1 death listing airbag as component involved.
- **2009:** 133 death and injury accidents, including 1 death listing airbag as component involved, 1 death listing service brake as component involved and 1 death listing steering as component involved. One incident involved a 2005 Cobalt in Pennsylvania where the driver and front-seat passenger airbags failed to deploy, and the ignition was in the

1 “accessory” position. Another involved the death of an 18-year-old driving a 2007 Cobalt
2 in Houston.

- 3 • **2010:** 400 death and injury accidents, including 2 deaths listing airbag as component
4 involved and 12 deaths listing steering as component involved. One involved the death of
5 Kelly Erin Rudy who burned to death in her 2005 Cobalt; another involved Jennifer
6 Brooke Melton of Georgia who died in a crash four days after taking her car in for service
7 because the engine had shut off while she was driving; and another involving Amy Kosilla
8 who died after the airbags failed to deploy.
- 9 • **2011:** 187 death and injury accidents, including 2 deaths listing airbag as component
10 involved and 2 deaths listing steering as component involved.
- 11 • **2012:** 157 death and injury accidents, including 5 deaths listing airbag as component
12 involved and 4 deaths listing steering as component involved.

13 Instead of admitting the dangerous safety defects in its vehicles, GM attempted to classify
14 the vast majority of incidents as “driver error.”

15 73. In 2013, a GM Senior Manager identified eighty (80) customer complaints that
16 Cobalts had unexpectedly stopped or stalled since 2005.

17 74. GM now admits that Old GM learned of the ignition switch defects as early as
18 2001. During pre-production development of the Saturn Ion, engineers learned that the ignition
19 could inadvertently move from the “Run” position to the “Accessory” or “Off” position. Old GM
20 claimed that a switch design change “had resolved the problem.” (“G.M. Reveals It Was Told of
21 Ignition Defect in ’01,” D. Ivory, New York Times (Mar. 12, 2014)). In 2002, Delphi informed
22 GM in a Production Part Approval Process report that the ignition switch did not meet GM’s
23 specifications. In 2003, an internal report documented an instance in which the service technician
24 observed a stall while driving. The service technician noted that the weight of several keys on the
25 key ring had worn out the ignition switch. It was replaced and the matter was closed.

26 75. According to GM’s chronology submitted to NHTSA pursuant to 49 CFR § 573.6,
27 engineers encountered the problem again in 2004 during test drives of the Cobalt before it went to
28 market. (March 11, 2014 Chronology Re: Recall of 2006-2007 Chevron HHR and Pontiac

1 Solstice, 2003-2007 Saturn Ion, and 2007 Saturn Sky Vehicles, p. 1, filed with March 11, 2014
2 letter to NHTSA.) Old GM opened an engineering inquiry, known as a “Problem Resolution
3 Tracking System inquiry” (“PRTS”), to investigate the issue. Engineers pinpointed the problem
4 and were “able to replicate this phenomenon during test drives.” (*Id.*) Per GM, the PRTS
5 engineers “believed that low key cylinder torque effort was an issue and considered a number of
6 potential solutions.” (*Id.*) But after considering cost and the amount of time it would take to
7 develop a fix, Old GM did nothing.

8 76. Soon after sales of the 2005 Cobalt started, Old GM received complaints about
9 sudden loss of power incidents, “including instances in which the key moved out of the ‘run’
10 position when a driver inadvertently contacted the key or steering column.” (*Id.*) Old GM
11 opened additional PRTS’s. The PRTS opened in May 2005, Old GM engineers suggested that
12 GM re-design the key head from a “slotted” to a “hole” configuration. After initially approving
13 the proposed fix, Old GM reversed course and again declined to implement a fix, because the
14 “lead-time for all solutions is too long,” and “tooling cost and piece price are too high.” A GM
15 engineer stated that the switch is “very fragile and doing any further changes will lead to
16 mechanical and/or electrical problems.”

17 77. Old GM opted instead to issue a Technical Service Bulletin (“TSB”) in October
18 2005, advising service technicians and dealers that the inadvertent turning of the key cylinder was
19 causing the loss of the car’s electrical system. Instead of disclosing the true nature of the defects
20 and fixing them, Old GM gave customers, who complained, “an insert for the key ring so that it
21 goes from a ‘slot’ design to a hole design” to prevent the key ring from moving up and down in
22 the slot. The “previous key ring” was “replaced with a smaller” one. This change was allegedly
23 able to keep the keys from hanging lower (and more susceptible to jarring). (*Id.* at 1-2.)

24 78. Old GM issued a December 2005 Service Bulletin, titled “Information on
25 Inadvertent Turning of Key Cylinder, Loss of Electrical System and No DTCs,” which covered
26 2005-2006 Cobalts, 2006 Chevrolet HHR, 2006 Pontiac Solstice and 2003-2006 Saturn Ions
27 because they all had the same ignition switch.

28 79. GM dealers reportedly provided key inserts to 474 customers who brought their

1 vehicles in for service. (*Id.* at 3.)

2 80. In October 2006, GM updated the December 2005 Service Bulletin to include:
3 2007 Chevrolet HHR, 2007 Pontiac Solstice, 2007 Saturn Sky and Ion.

4 81. In 2006, the GM design engineer responsible for the ignition switch approved a
5 design change, which included “the use of a new detent plunger and spring that increased torque
6 force in the ignition switch.” The new design was first produced in the 2007 model year. (*Id.* at
7 2.)

8 82. In 2007, Old GM met with NHTSA investigators regarding airbags. NHTSA told
9 Old GM of the July 2005 frontal and fatal crash involving Amber Marie Rose. The airbags in Ms.
10 Rose’s 2005 Cobalt did not deploy. Data retrieved from her vehicle’s diagnostic system indicated
11 that the ignition was in the “accessory” position. Old GM investigated and found similar
12 incidents. By its own admission, by the end of 2007, Old GM knew of 10 frontal collisions in
13 which the airbag did not deploy. (February 24, 2014 Attachment B-573.6(c)(6) at p. 2, submitted
14 to NHTSA with February 24, 2014 GM letter.)

15 83. GM continued to receive complaints and continued to investigate frontal crashes in
16 which the airbags did not deploy in Cobalts and other makes and models. For example, in 2009,
17 twenty-year-old Benjamin Hair died after crashing into a tree in Virginia when the airbags failed
18 to deploy.

19 84. According to GM, it was not until 2011 and 2012 that GM’s examinations of
20 switches from vehicles that had experienced crashes revealed significant design differences in the
21 torque performance of ignition switches from the 2005 Cobalts and those from the 2010 model
22 year, the last year of the Cobalt’s production.

23 85. However, discovery and investigation in the Melton case in 2013 reveal otherwise.
24 The Meltons’ lawyers and experts found evidence that GM had altered the design of ignition
25 switches, but had done so without notifying federal regulators or car owners or even changing the
26 part number as required by law. The change, which apparently occurred in **2006** according to a
27 document obtained by NBC News, increased the size of the detent plunger and spring, a pair of
28 parts that hold the ignition key in position intended to increase the “torque force” in the switch to

1 hold the key in place.

2 86. In 2011, GM had launched a new investigation into why the airbags did not deploy
3 in crashes involving 2005-2007 Cobalts and 2007 Pontiac G5s. In one fatality in Tennessee, the
4 data from the black box showed that the key was in the “accessory” or “OFF” position. Per GM,
5 the results of the investigation were inconclusive.

6 87. In 2012, GM identified four (4) fatal collisions and six (6) injury-producing
7 incidents involving 2004 Saturn Ions.

8 88. Before the April 2014 Congressional Hearings, Congressman Henry Waxman
9 reported that his staff had counted 133 cases between June 2003 *and* June 2012 of consumers
10 telling dealers that their GM vehicles were shutting off when they went over bumps or brushed
11 against the ignition. The reports include over 80 Saturn Ions, over 20 Chevrolet Cobalts and
12 HHRs, and some Pontiac G5s and Solstice. This data was obtained from the GM’s warranty
13 database, which is not reported to NHTSA. As pointed out by the House Committee staff during
14 the April 1, 2014 hearing, the warranty database “can provide an early warning of vehicle
15 defects.”

16 **4. No Recall Was Issued Until 2014**

17 89. In 2014, after numerous assessments and facing increasing scrutiny of its conduct
18 and the defects in its vehicles, GM finally announced a recall for the Chevrolet Cobalt and
19 Pontiac G5 vehicles. (February 24, 2014 Attachment B-573.6(c)(6) at p. 5-6, to NHTSA.)

20 90. After analysis by GM’s Field Performance Review Committee and the Executive
21 Action Decision Committee (“EFADC”), the EFADC finally ordered a recall of *some* of the
22 Defective Vehicles on January 31, 2014.

23 91. The first recall initiated on February 13, 2014 was for 780,000 compact cars:
24 2005-2007 Chevrolet Cobalts and Pontiac G5s (included Canadian Pontiac Pursuits as well).

25 92. After additional analysis, the EFADC expanded the recall, which was issued on
26 February 25, 2014 to include the Chevrolet HHR and Pontiac Solstice for model years 2006 and
27 2007, the Saturn Ion for model years 2003-2007, and the Saturn Sky for model year 2007.

28 93. On March 28, 2014, GM belatedly expanded the recall to include an additional

1 971,000 vehicles from the 2008-2011 model years.

2 94. According to GM, “the dealers are to replace the ignition switch,” presumably with
3 one with sufficient torque to prevent the inadvertent shut down of the ignition, power steering,
4 power brakes, seatbelts and airbags. (Feb. 24, 2014 Attachment B-573.6(c)(6) at p. 6.)

5 95. On April 10, 2014, GM expanded the recall to include: 2005 – 2010 Chevrolet
6 Cobalt; 2006 – 2011 Chevrolet HHR; 2007 – 2010 Pontiac G5; 2006 – 2010 Pontiac Solstice;
7 2003 – 2017 Saturn Ion; and 2007 – 2010 Saturn Sky. GM issued an additional recall because the
8 key can be removed from the ignition when the ignition is not in the “Off” position, and the
9 vehicle could roll away.

10 96. As set forth in Delphi’s April 11, 2014 letter to the NHTSA, the number of
11 vehicles likely exceeds 3,000,000 (3 Million) and includes the following makes and models:

- 12 • 2003-2007 Cadillac CTS
- 13 • 2004-2009 Cadillac SRX
- 14 • 2005-2009 Saab 9-7x
- 15 • 2004-2012 Chevrolet Malibu
- 16 • 2007-2010 Saturn Aura

17 97. While GM has now appointed a new Vehicle Safety Chief, on information and
18 belief over 3 million Defective Vehicles remain on the road to this day; and, on information and
19 belief, other vehicles not yet acknowledged by GM also have the deadly ignition switch defects.

20 98. GM faces an investigation by NHTSA, hearings in both the U.S. House and
21 Senate, and a probe by the Department of Justice.

22 **5. The Redesigned Switch Did Not Meet GM Specifications**

23 99. The ignition switches installed in 2008-2011 model year vehicles were still
24 defective because they did not meet GM’s minimum torque specifications based on testing done
25 by Delphi. GM reportedly recalled the 2008-2011 vehicles, but said the recall was done only to
26 ensure that defective ignition switches were not installed as replacement parts during
27 approximately 5,000 repairs. GM did not tell the full story.

28 100. Delphi representatives informed Congressional Committee members about the
redesign of the ignition switch that was produced beginning in April 2006. According to Delphi

1 officials, GM began discussions with Delphi about modifying and retesting the ignition switch in
2 mid-2005. Delphi agreed to modify the design of the ignition switch and presented to GM a
3 design with a longer spring. GM approved the new design in April 26, 2006, which was signed
4 by GM's engineer, Ray DeGiorgio (the same engineer who testified in the Melton case).
5 According to Delphi, most torque test results for the 2006 ignition switches were in the 10 to 15
6 N-cm range, higher than the older models, but still not meeting GM's documented specifications
7 of 15-25 N-cm. This means that the ignition switches used in 2008-2011 vehicles do not meet
8 GM's performance specifications.

9 101. NHTSA's data shows that there were at least fourteen (14) fatal crashes in the
10 recalled 2008-2011 vehicles involving a potential problem with an airbag, steering, electrical or
11 unknown component. Documents provided to the Congressional Committee show that top GM
12 officials knew that ignition switches for the 2008-2011 vehicles did not meet torque specifications
13 before announcing the recall. GM again acknowledged the importance of this specification in the
14 March 28, 2014 Recall Notice: "If the torque performance is not to specification, and the key ring
15 is carrying added weight or the vehicle goes off road or experiences some other jarring event, the
16 ignition switch may inadvertently be moved out of the 'run' position."

17 **6. The Cruze Has Been Plagued with Same Problems as the Recalled**
18 **Cars**

19 102. NHTSA's data shows that there were over sixty (60) incidents involving Chevrolet
20 Cruze vehicles, model years 2011- 2014, with potential problems with airbags, steering and
21 electrical components. There were at least ten (10) reports of vehicles being involved in crashes
22 and airbags not deploying; about twenty (20) reports of the vehicles suddenly stalling or shutting
23 off; and over thirty (30) reports of problems with the power steering while driving.

24 103. The full nature and extent of GM warranty claims regarding the Chevrolet Cruze is
25 not yet known as GM has not disclosed that information to the NHTSA or the public.

26 **C. GM Violated the Tread Act by Failing to Notify the NHTSA of the Known**
27 **Defects**

28 104. Under the Motor Vehicle Safety Act (the "Safety Act"), 49 U.S.C. §§ 30101, *et*

1 *seq.*, and the Transportation Recall Enhancement, Accountability & Documentation Act (the
2 “Tread Act”), 49 U.S.C. § 30170, GM is required to recall and repair motor vehicle defects
3 related to safety.

4 105. If a manufacturer learns that a vehicle contains a defect that is related to safety, the
5 manufacturer must inform the Secretary of Transportation pursuant to 49 U.S.C. § 30118(c)(1) &
6 (2). Manufacturers must inform NHTSA within five (5) working days of discovering “a defect in
7 a vehicle or item of equipment has been determined to be safety related, or a noncompliance with
8 a motor vehicle safety standard has been determined to exist.” The report to NHTSA shall
9 immediately include the following information: manufacturer’s name; identification of the
10 vehicles or equipment containing the defect, including: make, line, model year and years of
11 manufacturing; a description of the basis for the determination of the recall population; how those
12 vehicles differ from similar vehicles that the manufacturer excluded from the recall; and a
13 description of the defect. The manufacturer shall also inform NHTSA, as soon as possible,
14 regarding: the total number of vehicles potentially containing the defect; and the percentage of
15 vehicles estimated to contain the defect; a chronology of all principal events forming the basis of
16 the determination that the defect related to safety, including a summary of all warranty claims,
17 field or service reports and all other information, with their dates of receipt; and a description of
18 the plan to remedy the defect.

19 106. Pursuant to 49 U.S.C. § 30118(b)(2)(A) & (B), if the Secretary of Transportation
20 determines that the vehicle is defective, it will require the manufacturer to notify the owners,
21 purchasers and dealers of the defect and require it to remedy the defect or noncompliance.
22 Under the Tread Act, any manufacturer who violates 29 U.S.C. § 30166 must pay a civil penalty
23 to the U.S. Government at \$7,000 per violation per day with a maximum penalty “for a related
24 series of daily violations [of] \$17,350,000.” 49 C.F.R. § 578.6(c). For example, GM has been
25 ordered to pay \$7,000 per day since April 3, 2014 for failure to provide answers to all of NHTSA
26 questions. (“GM Fined for Stalling on Ignition-Switch Recall Info,” *TIME* (April 8, 2014)).

27 107. As described in more detail above, going back to at least 2001, GM has known
28 about the defective ignition switches. Yet, GM waited until February 2014 before finally

1 notifying NHTSA that it manufactured and sold vehicles with ignition switch defects that could
2 cause disabling of the power steering and power brakes and cause the non-deployment of the
3 vehicle's air bags in the event of a crash. GM did not give the public, including Plaintiff and the
4 Class, notice of the ignition switch defects at any time before February 2014.

5 108. With respect to the front axle right half shaft defect, GM knew that there was the
6 serious risk of harm with all Chevy Cruzes before it initiated the first recall for manual
7 transmissions, yet failed to recall all 1.4L automatic transmissions. This failure and GM's hiding
8 of this defect resulted in defective automatic transmission Cruzes being sold to the unsuspecting
9 public.

10 **D. The Defects Have Harmed Plaintiff and the Class**

11 109. The defects have caused damage to Plaintiff and the Class. A vehicle purchased,
12 leased or retained with a serious safety defect is worth less than the equivalent vehicle leased,
13 purchased or retained without the defect. A vehicle purchased, leased or retained under the
14 reasonable assumption that it is safe is worth more than a vehicle known to be subject to the
15 unreasonable risk of catastrophic injury or death because of the defects.

16 110. Purchasers and lessees paid more for the Defective Vehicles, through a higher
17 purchase price or higher lease payments, than they would have had the defects been disclosed.
18 Plaintiff and the Class overpaid for their Defective Vehicles. Because of the concealed defects,
19 Plaintiff and the Class did not receive the benefit of the bargain.

20 111. Plaintiff and the Class are stuck with unsafe vehicles that are now worth less than
21 they would have been but for GM's failure to disclose the defects.

22 112. If Old GM or GM had timely disclosed the defects as required by the MCPA,
23 TREAD Act, California's Unfair Competition Law ("UCL"), California Consumer Legal
24 Remedies Act ("CLRA") and Song-Beverly Act, all Class members' vehicles would now be
25 worth more.

26 **VI. SUCCESSOR LIABILITY**

27 113. As discussed above in Paragraphs 32-40, GM expressly assumed certain duties and
28 obligations under, *inter alia*, the TREAD Act, and is liable for its non-disclosure of the ignition

1 switch defects from the date of its formation on July 10, 2009 to the present.

2 114. GM expressly assumed liability for Lemon Law claims in the Master Sale and
3 Purchase Agreement of June 26, 2009, and this assumption of liability includes the Class' claims
4 under the Song-Beverly Act, which is California's Lemon Law statute.

5 115. GM has successor liability for Old GM's acts and omissions in the marketing and
6 sale of the Defective Vehicles because it has continued the business enterprise of Old GM, for the
7 following reasons:

- 8 • GM admits that it was knew of the ignition system defects from the very date of its
9 formation;
- 10 • GM has continued in the business of designing, manufacturing and marketing vehicles,
11 including at least some of the same vehicles as Old GM, including the Defective Vehicles;
- 12 • GM retained the bulk of the employees of Old GM, including managers, directors and/or
13 members of the Board, demonstrating a continuity of knowledge, including GM's current
14 CEO, Mary Barra, who was employed by GM in 1980 and appointed Vice President of
15 Global Manufacturing Engineering in 2008, a position in which she knew or should have
16 known of the Ignition Switch Defect;
- 17 • GM acquired owned and leased real property of Old GM, including all machinery,
18 equipment, tools, information technology, product inventory, and intellectual property;
- 19 • GM acquired the contracts, books and records of Old GM; and
- 20 • GM acquired all goodwill and other intangible personal property of Old GM.

21 **VII. TOLLING OF THE STATUTES OF LIMITATIONS**

22 116. GM is estopped from relying on any statutes of limitations. All applicable statutes
23 of limitation have been tolled by GM's knowing and active fraudulent concealment and denial of
24 the facts alleged herein. Plaintiff and Class members did not discover, and did not know of facts
25 that would have caused a reasonable person to suspect, that Old GM and GM did not report
26 information within their knowledge to federal authorities (e.g., NHTSA) or consumers, nor would
27 a reasonable and diligent investigation have disclosed that Old GM and GM had information in
28 their possession about the existence and dangerousness of the defect and opted to conceal that

1 information until shortly before this class action was filed.

2 117. To the contrary, Old GM instructed its service shops to provide Defective Vehicle
3 owners with a new key ring if they complained about unintended shut down, rather than admit
4 what Old GM knew (that the ignition switches were dangerously defective and warranted
5 replacement with a properly designed and built ignition system).

6 118. Old GM and GM were, and GM remains, under a continuing duty to disclose to
7 NHTSA, Plaintiff and the Class the true character, quality and nature of the Defective Vehicles,
8 that this defect is based on dangerous, inadequate and defective design and/or substandard
9 materials, and that it will require repair, poses a severe safety concern, and diminishes the value
10 of the Defective Vehicles.

11 119. Because of the active concealment by Old GM and GM, any and all limitations
12 periods otherwise applicable to the claims alleged herein have been tolled.

13 **VIII. CAUSES OF ACTION**

14 **FIRST CAUSE OF ACTION – VIOLATIONS OF THE**

15 **CONSUMER LEGAL REMEDIES ACT**

16 **(Cal. Civ. Code § 1750, *et seq.*)**

17 120. Plaintiff incorporates by reference all the proceeding and succeeding paragraphs as
18 though fully set forth herein. This Cause of Action is brought on behalf of the California State
19 Class.

20 121. Plaintiff and members of the Class are “consumers,” who purchased or leased one
21 or more Defective Vehicles pursuant to Cal. Civil Code § 1761(d).

22 122. GM is a “person” under Cal. Civ. Code § 1761(c). GM engaged in unfair or
23 deceptive acts or practices that violated the Consumer Legal Remedies Act (“CLRA”), Cal. Civil
24 Code § 1750, *et seq.*, as described herein.

25 123. California Civ. Code § 1770(a) provides that the “following unfair methods of
26 competition and unfair or deceptive acts or practices undertaken by any person in a transaction
27 intended to result or which results in the sale or lease of goods or services to any consumer are
28 unlawful.” GM violated several parts of Section 1770(a), including:

- 1 • Section 1770(a)(2) by GM “misrepresent[ing] the source, sponsorship, approval, or
- 2 certification of goods.”
- 3 • Section 1770(a)(5) by GM “represent[ing] that goods . . . have sponsorship, approval,
- 4 characteristics, ingredients, uses, benefits, or quantities which they do not have.”
- 5 • Section 1770(a)(7) by GM representing that goods are of a particular standard, quality, or
- 6 grade when they are of another.
- 7 • Section 1770(a)(9) by GM advertising goods with the intent not to sell them as advertised.
- 8 • Section 1770(a)(14) by GM representing that the transaction was supplied in accordance
- 9 with a previous representation when it was not.

10 124. Further, under the TREAD Act, 49 U.S.C. § 30118(c)(1) & (2), and its

11 accompanying regulations, if a manufacturer learns that a vehicle contains a defect and that defect

12 is related to motor vehicle safety, the manufacturer must disclose the defect.

13 125. In acquiring Old GM, GM expressly assumed the obligations to make all required

14 disclosures under the TREAD Act. GM also has successor liability for the deceptive and unfair

15 acts and omissions of Old GM.

16 126. If a manufacturer learns that a vehicle contains a defect that is related to safety, the

17 manufacturer must inform the Secretary of Transportation pursuant to 49 U.S.C. § 30118(c)(1) &

18 (2). Manufacturers must inform NHTSA within five (5) working days of discovering “a defect in

19 a vehicle or item of equipment has been determined to be safety related, or a noncompliance with

20 a motor vehicle safety standard has been determined to exist.” The report to NHTSA shall

21 immediately include the following information: manufacturer’s name; identification of the

22 vehicles or equipment containing the defect, including: make, line, model year and years of

23 manufacturing; a description of the basis for the determination of the recall population; how those

24 vehicles differ from similar vehicles that the manufacturer excluded from the recall; and a

25 description of the defect.

26 127. The manufacturer shall also inform NHTSA, as soon as possible, regarding: the

27 total number of vehicles potentially containing the defect; and the percentage of vehicles

28 estimated to contain the defect; a chronology of all principal events forming the basis of the

1 determination that the defect related to safety, including a summary of all warranty claims, field
2 or service reports and all other information, with their dates of receipt; and a description of the
3 plan to remedy the defect.

4 128. Under the Tread Act, any manufacturer who violates 29 U.S.C. § 30166 must pay
5 a civil penalty to the U.S. Government at \$7,000 per violation per day with a maximum penalty
6 “for a related series of daily violations [of] \$17,350,000.” 49 C.F.R. § 578.6(c).

7 129. With respect to the front axle right half shaft defect, GM knew that there was the
8 serious risk of harm with all Chevy Cruzes before it initiated the first recall for manual
9 transmissions, yet failed to recall all 1.4L automatic transmissions. This failure and GM’s hiding
10 of this defect resulted in defective Cruzes being sold to the unsuspecting public, including the
11 Class Representative, Mesafint Gebremariam.

12 130. By failing to disclose and by actively concealing the front axle right half shaft
13 defect, and by selling vehicles while violating the TREAD Act and other conduct as alleged
14 herein, Old GM and GM both engaged in deceptive business practices prohibited by the CLRA.

15 131. With respect to the ignition switch defect, from at least 2001, Old GM had
16 knowledge of the ignition switch defect, but hid the problem for the remainder of its existence
17 until 2009. From its creation on July 10, 2009, GM knew of the ignition switch problem because
18 of the knowledge of Old GM and continuous reports up until the present. GM admits the defect
19 in the ignition switch has been linked to at least thirteen (13) fatalities. Other sources have
20 reported that hundreds of deaths and serious injuries are linked the faulty ignition switches.

21 132. Despite being aware of the ignition switch defects ever since its creation on July
22 10, 2009, GM waited until February 7, 2014, before finally sending a letter to NHTSA admitting
23 its knowledge of the ignition switch defects causing the vehicles to lose power and the airbags not
24 to deploy. GM initially only identified two vehicle models, along with the corresponding model
25 years, to be recalled: 2005-2007 Chevrolet Cobalt and 2007 Pontiac G5. On February 25, 2014,
26 GM amended its letter to include four additional vehicles, the 2006-2006 Chevrolet HHR, 2006-
27 2007 Pontiac Solstice, 2003-2007 Saturn Ion, and the 2007 Saturn Sky.

28 133. By failing to disclose and by actively concealing the ignition switch defect, and by

1 selling vehicles while violating the TREAD Act and other conduct as alleged herein, Old GM and
2 GM both engaged in deceptive business practices prohibited by the CLRA.

3 134. Both Old GM and GM failed for years to inform the NHTSA about the known
4 defects in the Defective Vehicles' ignition system. Consequently, the public, including Plaintiff
5 and the Class, received no notice of the ignition switch defects, that the defect could disable
6 multiple electrical functions including power steering and power brakes, or that the defect could
7 cause the airbags not to deploy and the seatbelt pretensioners not to function. GM knew that the
8 ignition switch had a defect that could cause a vehicle's engine to lose power without warning,
9 and that when the engine lost power there was a risk that electrical functions would fail and that
10 the airbags would not deploy. GM, however, failed to inform NHTSA or warn Plaintiff or the
11 public about these inherent dangers despite having a duty to do so.

12 135. Old GM and GM owed Plaintiff and the Class a duty to comply with the TREAD
13 Act and disclose the defective nature of Defective Vehicles, including the front axle right half
14 shaft and ignition switch defects because Old GM and GM:

- 15 a. Possessed exclusive knowledge of the defects rendering the Defective Vehicles
16 inherently more dangerous and unreliable than otherwise similar vehicles;
17 b. Intentionally concealed the hazardous situation with Defective Vehicles by failing
18 to comply with the TREAD Act and disclosing the front axle right half shaft defect
19 with manual transmissions; and
20 c. Intentionally concealed the hazardous situation with Defective Vehicles by failing
21 to comply with the TREAD Act and disclosing the ignition switch defects.

22 136. The Defective Vehicles pose an unreasonable risk of death or serious bodily injury
23 to Plaintiff, passengers, and other motorists and pedestrians, because they are susceptible to
24 sudden loss of power resulting in the loss of power steering and power brakes and failure of the
25 airbags to deploy.

26 137. Old GM's and GM's unfair or deceptive acts or practices were likely to and did in
27 fact deceive reasonable consumers, including Plaintiff and the Class, about the true safety and
28 reliability of the Defective Vehicles.

1 138. As a result of their violations of the CLRA detailed above, Old GM and GM
2 caused actual damage to Plaintiff and, if not stopped, will continue to harm Plaintiff and the
3 Class. Plaintiff and the Class members currently own or lease Defective Vehicles that are
4 defective and inherently unsafe. These violations caused the diminution in value of their vehicles,
5 which are now worth less than they would have been without the defects. Had Old GM and GM
6 timely disclosed the defects, Plaintiff and the Class would either not have purchased the Defective
7 Vehicles at all, or would have paid less for the Defective Vehicles. Plaintiff and the Class did not
8 receive the benefit of their bargain, which was for a safe vehicle free of serious safety defects.

9 139. Had GM timely disclosed the defects, the value of Plaintiff and the Class'
10 Defective Vehicles would not now be diminished.

11 140. Plaintiff and the Class face the risk of irreparable injury as a result of GM's acts
12 and omissions in violation of the CLRA, and these violations present a continuing risk to Plaintiff
13 and to the general public.

14 141. Under Cal. Civ. Code § 1780(a), Plaintiff and the Class seek monetary relief
15 against GM measured as the diminution of the value of their vehicles caused by Old GM's and
16 GM's violations of the CLRA as alleged herein.

17 142. Under Cal. Civ. Code § 1780(b), Plaintiff and the Class seek an additional award
18 against GM of up to \$5,000 for each class member who qualifies as a "senior citizen" or "disabled
19 person" under the CLRA. Old GM and GM knew or should have known that their conduct was
20 directed to one or more Class members, who are senior citizens or disabled persons. Their
21 conduct caused one or more of these senior citizens or disabled persons to suffer a substantial loss
22 of property set aside for retirement or for personal or family care and maintenance, or assets
23 essential to the health or welfare of the senior citizen or disabled person. One or more Class
24 members who are senior citizens or disabled persons are substantially more vulnerable to Old GM
25 and GM's conduct because of age, poor health or infirmity, impaired understanding, restricted
26 mobility or disability. Each of them has suffered substantial physical, emotional and/or economic
27 damage resulting from Old GM's and GM's conduct.

28 143. Plaintiff and the Class seek punitive damages against GM because it carried out

1 despicable conduct with willful and conscious disregard of the rights and safety of others,
2 including Plaintiff and the Class to potential to cruel and unjust hardship in knowing disregard of
3 their rights. First Old GM, then GM intentionally and willfully concealed and failed to inform the
4 NHTSA of the defects related to the ignition switch; and GM intentionally and willfully
5 concealed the defects with the automatic transmission Cruze vehicles. GM deceived Plaintiff and
6 the Class on the safety of GM vehicles, concealing material facts that only GM knew. GM's
7 conduct constitutes malice, oppression and fraud warranting punitive damages under Cal. Civ.
8 Code § 3294.

9 144. Plaintiff seeks an order enjoining GM's unfair or deceptive acts and practices,
10 restitution, punitive damages, costs, attorneys' fees under Cal. Civ. Code § 1780(e), and any other
11 just and proper relief available under the CLRA.

12 145. Class members who purchased a Defective Vehicle after July 10, 2009
13 ("Repurchasers") also have a CLRA claim against GM for failing to disclose the known ignition-
14 switch defect. But for GM's deceptive and unfair failure to disclose the ignition switch defects,
15 the Repurchasers would either not have purchased the Defective Vehicles or would have paid less
16 for them, entitling them to monetary relief under Cal. Civ. Code § 1780(a) and punitive damages,
17 for the reasons set forth herein.

18 146. To the extent required by Cal. Civ. Code § 1780(d), Plaintiff is filing a declaration
19 showing that venue in this District is proper.

20 WHEREFORE, Plaintiff prays for judgment against Defendant as set forth herein.

21 **SECOND CAUSE OF ACTION – VIOLATION OF THE**

22 **CALIFORNIA UNFAIR COMPETITION LAW**

23 **(Cal. Bus. & Prof. Code § 17200, et seq.)**

24 147. Plaintiff incorporates by reference all the proceeding and succeeding paragraphs as
25 though fully set forth herein. This Cause of Action is brought on behalf of the California State
26 Class.

27 148. Cal. Bus. & Prof. Code § 17200 prohibits any "unlawful, unfair, or fraudulent
28 business act or practices." GM has engaged in unlawful, fraudulent and unfair business acts and

1 practices in violation of the UCL. GM has successor liability for the unlawful, fraudulent and
2 unfair business acts and practices of Old GM.

3 149. Both Old GM and GM violated the unlawful prong of Section 17200 by: (1) their
4 violations of the Consumer Legal Remedies Act, Cal. Civil Code § 1750, *et seq.*, as set forth in
5 the First Cause of Action by the acts and practices set forth herein; and (2) because they engaged
6 in business acts or practices that are unlawful because they violated the TREAD Act, discussed
7 *infra*, and its regulations. They violated the TREAD Act when they failed to timely inform
8 NHTSA of the ignition switch defects and the front axle right half shaft defect and allowed cars to
9 be sold with these defects.

10 150. Old GM and GM violated the unfair and fraudulent prong of section 17200 by
11 failing to inform NHTSA about defects impacting the safety and reliability of its vehicles. They
12 engaged in conduct that was likely to deceive reasonable owners into believing that the vehicles
13 were safe and reliable. The information that should have been disclosed to NHTSA about the
14 faulty ignition switch and front axle right half shaft would be material to a reasonable consumer.

15 151. Old GM and GM also violated the unfair prong of section 17200 because their acts
16 and practices, as set forth herein and include the manufacture and sale of vehicles with an ignition
17 switch defect and/or front axle right half shaft defects, and their failure to adequately disclose the
18 defects to NHTSA and implement a remedy, offend established public policy. The harm they
19 have caused consumers greatly outweighs any benefits associated with those acts and practices.
20 Their conduct has also impaired competition within the automotive vehicle market and has
21 prevented Plaintiff and the Class from making fully informed decisions about whether to lease,
22 purchase and/or retain the Defective Vehicles. For example, GM knew of the ignition switch
23 defects by 2001, yet it continued to design, manufacture and market the Defect Vehicles for years,
24 knowing that the vehicles had an unreasonable propensity to shut down during ordinary driving
25 conditions, leading to an unreasonable risk of serious bodily injury or death.

26 152. Plaintiff and the Class have suffered an injury, including the loss of money or
27 property, because of GM's unfair, unlawful and/or deceptive practices. GM failed to inform
28 NHTSA and consumers, that its vehicles had a defective ignition switch and/or front axle right

1 half shaft defect that could lead to injury or death. Had Plaintiff and the Class known this they
2 would either not have purchased their vehicles at all, would have paid less for them and/or would
3 not have retained their Defective Vehicles.

4 153. All of the acts and practices alleged herein occurred, and continue to occur, in the
5 conduct of GM's business. GM's wrongful conduct is part of a pattern and/or generalized course
6 of conduct that is still perpetuated and repeated, in California and nationwide.

7 154. Plaintiff and the Class respectfully request that the Court enter such orders and
8 judgments as necessary, including a declaratory judgment that GM has violated the UCL; an order
9 enjoining GM from continuing its unfair, unlawful and/or deceptive practices; an order and
10 judgment restoring any money lost as the result of GM's unfair, unlawful and deceptive trade
11 practices to the Class members, including restitution and disgorgement of any profits GM
12 received as a result of its unfair, unlawful and/or deceptive practices as provided in Cal. Bus. &
13 Prof. Code § 17203, Cal. Civ. Code § 3345, Cal Civ. Proc. § 384, and all other relief set forth
14 herein or available under the law.

15 155. Class members who purchased a Defective Vehicle after July 10, 2009
16 ("Repurchasers") have a UCL claim against GM for failing to disclose the known defects. But for
17 GM's deceptive and unfair failure to disclose the defects, the Repurchasers would either not have
18 purchased the Defective Vehicles or would have paid less for them, entitling them to orders or
19 judgments to enjoin GM from continuing its unfair, unlawful and/or deceptive practices; and/or
20 restore to the Repurchasers any money lost as the result of GM's unfair, unlawful and deceptive
21 trade practices pursuant to Cal. Bus. & Prof. Code § 17203, Cal. Civ. Code § 3345, Cal Civ. Proc.
22 § 384.

23 WHEREFORE, Plaintiff prays for judgment against Defendant as set forth herein.

24 **THIRD CAUSE OF ACTION – FALSE ADVERTISING**

25 **(Cal. Bus. & Prof. Code § 17500 *et seq.*)**

26 156. Plaintiff incorporates by reference all the proceeding and succeeding paragraphs as
27 though fully set forth herein. This Cause of Action is brought on behalf of the California State
28 Class.

1 157. California Bus. & Prof. Code § 17500, *et seq.*, the False Advertising Act, prohibits
2 any person, firm, corporation, or association, or any employee thereof, with the intent to dispose
3 of real or personal property, from performing services or inducing the public to enter into any
4 obligation relating to property or services, disseminating an untrue or misleading statement
5 concerning such property or services which the defendant knew, or in the exercise of reasonable
6 care should have known, was untrue or misleading. A court may order injunctive relief and
7 restitution to affected members as remedies for any violations of Section 17500.

8 158. At all times relevant herein, GM engaged in disseminating false and misleading
9 communications which misrepresent the characteristics, nature, quality and safety of the
10 Defective Vehicles and have failed to disclose the true quality and defects of these products. GM
11 engaged in the advertising and the failure to disclose the defects and design flaws in its products
12 with the intent to induce Plaintiff and the Class to purchase Defendant's vehicles. Defendant's
13 business practices include, without limitation:

- 14 a. Failing to remedy the defects or design flaws which made Defendant's vehicles
15 inherently more dangerous than other similar vehicles;
- 16 b. Failing to design, manufacture, distribute and sell a product which would perform in a
17 safe manner when used in a reasonably foreseeable manner by a reasonable customer.
- 18 c. Selling to Plaintiff and the Class vehicles containing defects or design flaws, which
19 make them inherently more dangerous than other similar vehicles;
- 20 d. Failing to disclose to Plaintiff and the Class that the vehicles sold to such consumers
21 contain a defect or design flaw which makes them inherently more dangerous than
22 other similar vehicles;
- 23 e. Failing to timely inform NHTSA and vehicle owners, purchasers and dealers of the
24 defects and to timely recall the Defective Vehicles; and
- 25 f. Violating the other statutes and common law causes of action as alleged in this
26 complaint.

27 159. GM caused to be made or disseminated throughout California and the United
28 States, through advertising, marketing and other publications, including the internet, statements

1 that are untrue or misleading, and which were known, or which by the exercise of reasonable care
2 should have been known to GM, to be untrue or misleading to consumers and Plaintiff, acting in
3 violation of Cal. Bus. & Prof. Code § 17500. GM's advertising was untrue or misleading and
4 likely to deceive the public in that the true characteristics and nature of the vehicles sold by GM
5 were not as advertised.

6 160. In purchasing GM vehicles, Plaintiff and the Class reasonably believed and/or
7 depended on the material false and/or misleading information provided by GM with respect to the
8 quality and safety of the vehicles being sold. GM induced Plaintiff and the Class to purchase GM
9 automotive products through the acts and omissions alleged herein. Plaintiff and the Class
10 believed the false and/or misleading information to be true and/or relied on it when making
11 purchasing decisions.

12 161. GM's business acts and practices described herein constitute an unfair business
13 practice in violation of the Unfair Competition Law in that such acts and practices are
14 substantially injurious to consumers and offensive to established California public policy.
15 GM's acts and omissions constitute a fraudulent business practice in violation of the Unfair
16 Competition Law in that such acts and practices are likely to deceive consumers as to their legal
17 rights and obligations with respect to the purchase of vehicles from GM.

18 162. As a result of GM's business acts and practices, Plaintiff and the Class have
19 suffered injury in fact and have suffered an economic loss by, among other things: (1) leasing
20 and/or purchasing an inferior vehicle whose nature and characteristics render it of a lesser value
21 than represented; (2) incurring costs for diminished resale value of the vehicles purchased; (3)
22 leasing and/or purchasing a vehicle that poses a danger to the health and safety of not only the
23 consumer, but passengers and other and pedestrians; (4) incurring increased costs to repair the
24 products purchased; and (5) incurring costs for loss of use.

25 163. Plaintiff, on behalf of the Class, respectfully requests that the Court issue an
26 injunction restraining and enjoining GM from sending or transmitting false and misleading
27 advertising to individuals or entities concerning the purported safety and quality of GM vehicles.
28 Plaintiff and the Class further request an order restoring any money or property, real or personal,

1 which may have been lost by means of Defendant's false advertising.

2 164. Pursuant to Cal. Code Civ. Proc. § 1021.5, Plaintiff seeks reasonable attorneys'
3 fees, costs and expenses incurred in bringing this action.

4 WHEREFORE, Plaintiff prays for judgment against Defendant as set forth herein.

5 **FOURTH CAUSE OF ACTION – BREACH OF IMPLIED WARRANTY**

6 165. Plaintiff incorporates by reference all the proceeding and succeeding paragraphs as
7 though fully set forth herein. This Cause of Action is brought on behalf of the Nationwide Class.

8 166. GM impliedly warranted to consumers that the vehicles were what they were
9 represented to be. These implied warranties induced the public in general, Plaintiff and other
10 Class members in particular to choose and purchase GM vehicles. These implied warranties were
11 both directly and indirectly believed and relied upon by Plaintiff and Class members. This
12 reliance was justified by GM's skill, expertise and judgment in the design, manufacturing, testing,
13 labeling, distribution and/or sale of automobiles.

14 167. At the time of the sales, GM had knowledge of the purpose for which its products
15 were purchased and impliedly warranted the same to be, in all respects, fit and proper for this
16 purpose. GM breached its warranties in that the products were not fit for the purpose for which
17 they were intended and used. GM sold to Plaintiff and other Class members a product, which was
18 not fit for use. The defect in the products existed prior to the delivery of the products to Plaintiff
19 and the Class.

20 168. Plaintiff and the Class have suffered injury in fact and have suffered an economic
21 loss by, among other things: (1) leasing and/or purchasing an inferior vehicle whose nature and
22 characteristics render it of a lesser value than represented; (2) incurring costs for diminished
23 resale value of the vehicles purchased; (3) leasing and/or purchasing a vehicle that poses a danger
24 to the health and safety of not only the consumer, but passengers and other and pedestrians; (4)
25 incurring increased costs to repair the products purchased; and (5) incurring costs for loss of use.

26 169. Plaintiff, on behalf of the Class, respectfully requests that the Court issue an
27 injunction restraining and enjoining GM from sending or transmitting false and misleading
28 advertising to individuals or entities concerning the purported safety and quality of GM vehicles.

1 WHEREFORE, Plaintiff prays for judgment against Defendant as set forth herein.

2 **FIFTH CAUSE OF ACTION - VIOLATION OF SONG-BEVERLY CONSUMER**

3 **WARRANTY ACT FOR BREACH OF IMPLIED WARRANTY OF**

4 **MERCHANTABILITY (CALIFORNIA "LEMON LAW")**

5 (Cal. Civ. Code §§ 1791.1 & 1792)

6 170. Plaintiff incorporates by reference all the proceeding and succeeding paragraphs as
7 though fully set forth herein. This Cause of Action is brought on behalf of the California State
8 Class.

9 171. Plaintiff and Class members who purchased or leased the Defective Vehicles in
10 California are "buyers" within the meaning of Cal. Civ. Code § 1791(b). The Defective Vehicles
11 are "consumer goods" within the meaning of Section 1791(a).

12 172. GM was a "manufacturer" of the Defective Vehicles within the meaning of Section
13 1791(j), and, in purchasing Old GM, expressly assumed liability and responsibility for "payment
14 of all [Old GM's] Liabilities arising under...Lemon Laws," which includes California's Lemon
15 Law, the Song-Beverly Act.

16 173. GM impliedly warranted to Plaintiff and the Class that its Defective Vehicles were
17 "merchantable" within the meaning of Sections 1791.1(a) & 1792. The Defective Vehicles,
18 however, do not have the quality that a buyer would reasonably expect, and were therefore not
19 merchantable. Cal. Civ. Code § 1791.1(a) states:

20 "Implied warranty of merchantability" or "implied warranty that goods are merchantable"
21 means that the consumer goods meet each of the following:

- 22 (1) Pass without objection in the trade under the contract description.
23 (2) Are fit for the ordinary purposes for which such goods are used.
24 (3) Are adequately contained, packaged, and labeled.
25 (4) Conform to the promises or affirmations of fact made on the container or label.

26 174. The Defective Vehicles breach the implied warranty of merchantability because of
27 the defects that cause the Defective Vehicles to inadvertently shut down during ordinary driving
28 conditions and disabling the power steering and power brakes and causing the non-deployment of
the vehicle's air bags in the event of a crash, leading to an unreasonable likelihood of accident and

1 an unreasonable likelihood that such accidents would cause serious bodily injury or death to
2 vehicle occupants or other motorists and pedestrians. Because of the defects, the Defective
3 Vehicles are not safe to drive, and thus not fit for ordinary purposes. These defects have deprived
4 Plaintiff and the Class of the benefit of their bargain and have caused the Defective Vehicles to
5 depreciate in value.

6 175. The Defective Vehicles are not adequately labeled because the labeling fails to
7 disclose the defects and does not advise Plaintiff and Class members to avoid attaching anything
8 to their vehicle key rings. GM failed to warn about the dangerous safety defects in the Defective
9 Vehicles.

10 176. As a direct and proximate result of GM's breach of its duties under California's
11 Lemon Law, Class members received goods whose dangerous condition substantially impairs
12 their value. Plaintiff and the Class have been damaged by the diminished value of GM's
13 products, the products' malfunctioning and the nonuse of their Defective Vehicles.

14 177. Pursuant to Cal. Civ. Code §§ 1791.1(d) & 1794, Plaintiff and Class members are
15 entitled to damages and other legal and equitable relief including, at their election, the purchase
16 price of their Defective Vehicles or the overpayment or diminution in value of their Defective
17 Vehicles. Further, under Cal. Civ. Code § 1794, Class members are entitled to costs and
18 attorneys' fees.

19 WHEREFORE, Plaintiff prays for judgment against Defendant as set forth herein.

20 **SIXTH CAUSE OF ACTION – BREACH OF EXPRESS WARRANTY**

21 178. Plaintiff incorporates by reference all the proceeding and succeeding paragraphs as
22 though fully set forth herein. This Cause of Action is brought on behalf of the Nationwide Class.

23 179. GM expressly warranted to persons purchasing its vehicles that they were what
24 they were represented to be. These express warranties induced the public in general, Plaintiff and
25 members of the Class, in particular, to use and purchase Defendant's products. These express
26 warranties were both directly and indirectly believed and relied upon by Plaintiff and the Class,
27 and induced Plaintiff and the Class to choose Defendant's vehicles.

28 180. Defendant breached its aforesaid warranties in that its products were not fit for the

1 use and purpose expressly warranted by Defendant.

2 181. Plaintiff and the Class have suffered injury in fact and have suffered an economic
3 loss by, among other things: (1) leasing and/or purchasing an inferior vehicle whose nature and
4 characteristics render it of a lesser value than represented; (2) incurring costs for diminished
5 resale value of the vehicles purchased; (3) leasing and/or purchasing a vehicle that poses a danger
6 to the health and safety of not only the consumer, but passengers and other and pedestrians; (4)
7 incurring increased costs to repair the products purchased; and (5) incurring costs for loss of use.

8 182. Plaintiff, on behalf of the Class, respectfully requests that the Court issue an
9 injunction restraining and enjoining GM from sending or transmitting false and misleading
10 advertising to individuals or entities concerning the purported safety and quality of GM vehicles.

11 WHEREFORE, Plaintiff prays for judgment against Defendant as set forth herein.

12 **SEVENTH CAUSE OF ACTION - NEGLIGENCE**

13 183. Plaintiff incorporates by reference all the proceeding and succeeding paragraphs as
14 though fully set forth herein. This Cause of Action is brought on behalf of the Nationwide Class.

15 184. As the of designer, manufacturer, promoter, marketer and seller of automotive
16 vehicles, GM had a duty to Plaintiff and the Class to not sell products that were defective and
17 could result in serious injuries to either Plaintiff, the Class or innocent bystanders and third
18 parties. GM breached that duty by designing, manufacturing, promoting, marketing and selling
19 products to Plaintiff and the Class that had a serious ignition switch defect and/or front axle right
20 half shaft defect without disclosing these facts to Plaintiff and the Class. That breach caused the
21 economic harm, injury, and/or damage to Plaintiff and the Class that are set forth herein.

22 185. In its February 6, 2014 10-K filing with the United States Security Exchange
23 Commission, GM included the following statements that recognize its duty to act with reasonable
24 care: "In the U.S. if a vehicle or vehicle equipment does not comply with a safety standard or if a
25 vehicle defect creates an unreasonable safety risk the manufacturer is required to notify owners
26 and provide a remedy." (February 6, 2014 10-K, p. 13.)

27 186. As a direct and proximate result of GM's negligence, Plaintiff and the Class have
28 been damaged as alleged herein in an amount to be ascertained at the time of trial.

1 WHEREFORE, Plaintiff prays for judgment against Defendant as set forth herein.

2 **EIGHTH CAUSE OF ACTION - FRAUDULENT CONCEALMENT**

3 187. Plaintiff incorporates by reference all the proceeding and succeeding paragraphs as
4 though fully set forth herein. This Cause of Action is brought on behalf of the Nationwide Class.

5 188. At all times relevant herein, GM knew that the Defective Vehicles contained
6 defective ignition switches and/or front axle right half shaft defects, presenting an unreasonably
7 dangerous propensity for the car to suddenly turn off, disabling the power steering and power
8 brakes and causing the non-deployment of the vehicle's air bags in the event of a crash and cause
9 harm to drivers, passengers and other motorists and pedestrians.

10 189. GM fraudulently concealed from and/or failed to disclose to Plaintiff and the Class
11 the true defective nature of the Defective vehicles. GM was under a duty to Plaintiff and the
12 Class to disclose and warn of the defective nature of the Defective Vehicles because: (a) GM was
13 in a superior position to know the true state of the facts about the hidden defects in the vehicles,
14 and those defects were latent; (b) GM made partial disclosures about the safety and quality of the
15 subject vehicles while not revealing their true defective nature; and (c) GM fraudulently and
16 purposefully concealed the defective nature of the Defective vehicles from Plaintiff and the Class.

17 190. The facts concealed and/or not disclosed by GM to Plaintiff and the Class were
18 material facts that a reasonable person would have considered to be important in deciding whether
19 to purchase and/or operate the Defective Vehicles.

20 191. GM intentionally concealed and/or failed to disclose the true nature of the
21 problems with the Defective Vehicles for the purpose of inducing Plaintiff and the Class to act
22 thereon. Plaintiff and the Class justifiably acted or relied upon, to the detriment of Plaintiff and
23 the Class, the concealed and/or non-disclosed facts, as evidenced by their purchase and operation
24 of the Defective Vehicles.

25 192. As a direct and proximate cause of result of GM's misconduct, Plaintiff and the
26 Class have suffered actual damages as alleged herein.

27 WHEREFORE, Plaintiff prays for judgment against Defendant as set forth herein.

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1 **NINTH CAUSE OF ACTION – UNJUST ENRICHMENT**

2 193. Plaintiff incorporates by reference all the proceeding and succeeding paragraphs as
3 though fully set forth herein. This Cause of Action is brought on behalf of the Nationwide Class.

4 194. As a result of GM's continuous and systematic misrepresentations and failure to
5 disclose that the vehicles it had designed, manufactured, promoted, marketed and sold contained
6 serious defects that affected the safety of its vehicles, Defendant was able to charge a higher price
7 for its vehicles, which did not match the vehicle's value. Based on these practices, GM was
8 unjustly enriched.

9 195. GM knew and should have known of the benefit it was receiving due to its
10 misrepresentations and failure to disclose, and enjoyed the benefit of increased financial gains, to
11 the detriment of Plaintiff and Class members, who paid a higher price for a product with a lower
12 value. It would be inequitable and unjust for GM to retain these unlawfully obtained profits.

13 196. Plaintiff, therefore, seeks and order establishing Defendant as constructive trustee
14 of the profits unjustly obtained, plus interest.

15 WHEREFORE, Plaintiff prays for judgment against Defendant as set forth herein.

16 **TENTH CAUSE OF ACTION – CLAIM FOR ACTUAL DAMAGES**

17 **AND EXPENSE REIMBURSEMENT FUND**

18 197. Plaintiff incorporates by reference all the proceeding and succeeding paragraphs as
19 though fully set forth herein. This Cause of Action is brought on behalf of the Nationwide Class.

20 198. Plaintiff and the Class have incurred out-of-pocket expenses, losses and damages
21 (collectively "damages") in attempting to rectifying the defects in their Defective Vehicles. Such
22 damages will continue as they pay for rental cars and alternative transportation, miss time from
23 work, pay for other incidental expenses, including childcare and anything else involved in dealing
24 with the recall process and resolving the issues with their Defective Vehicles.

25 199. Plaintiff and the Class seek payment of any and all such damages under the
26 consumer statutes and applicable law set forth herein. Although the damages are individualized
27 in terms of amounts and details, the right of each member of the Class to recover such damages
28 presents common questions of law.

IX. PRAYER FOR RELIEF

1. an order certifying the proposed Classes designating Plaintiff as the name representative of the Classes, or alternatively certify all issues and claims that are appropriately certified; and designate and appoint Plaintiff as Class and Class Representatives and Plaintiff's chosen counsel as Class Counsel;

3. a declaration that GM is financially responsible for notifying all Class Members about the defective nature of the Defective Vehicles;

5. an award to Plaintiff and Class members actual, compensatory damages, or, in the alternative, statutory damages, including interest, in amounts to be proven at trial;

7. an award to Plaintiff and the Class of restitution of all monies paid to GM because of GM's violation of the UCL, the CLRA and the Song-Beverly Act;

CLASS ACTION COMPLAINT

1 or part of the ill-gotten profits received from the sale or lease of the Defective Vehicles, or make
2 full restitution to Plaintiff and Class members;

3 9. a declaration establishing a GM-funded expense reimbursement fund to be
4 administered under Court supervision;

5 10. an award to Plaintiff and the Class of their reasonable attorneys' fees, costs and
6 pre-judgment and post-judgment interest, and all other damages allowed under the law, including,
7 but not limited to Cal. Code Civ. Proc. § 1021.5;

8 11. an award to Plaintiff and the Class of punitive damages in an amount to be proven
9 at trial;

10 12. leave to amend this Complaint to conform to the evidence produced at trial; and

11 13. any such other relief as the Court deems appropriate or just under the
12 circumstances.

13 **X. JURY DEMAND**

14 Plaintiff demands a trial by jury on any and all issues in this action so triable of right.

15
16 DATED: April 21, 2014

MARY ALEXANDER & ASSOCIATES, P.C.

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18 By: /s/ Mary E. Alexander
19 Mary E. Alexander, Esq.
20 Jennifer L. Fiore, Esq.
21 *Attorneys for Plaintiffs*
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